

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DR. VELTON C. WHITE and
DONNA WHITE,

Plaintiffs,

v.

Case No. 07-CV-892

MICHAEL C. MARSHALL,
SUPER SPRING ORTHODONTICS, LLC,
SPEEDALIGNERS, LLC,
NIGHTSHIFT LLC, and
DANIEL L. BISHOP

Defendants.

**JANUARY 26, 2011 DECLARATION OF JOHN P. FREDRICKSON IN
SUPPORT OF PLAINTIFFS' REQUEST FOR ATTORNEYS FEES**

I, John P. Fredrickson declare and state as follows:

1. I am one of the attorneys for the plaintiffs in this action, and a shareholder in the law firm of Boyle Fredrickson, S.C. I make this declaration on the basis of my personal knowledge.

2. I am a 1985 graduate of the DePaul University College of Law.

3. Following graduation from DePaul, I served as a law clerk for Judge John L. Coffey at the United States Court of Appeals for the Seventh Circuit for one year.

4. I have been practicing in the area of intellectual property litigation for approximately twenty years, including patent, copyright, trademark and trade secret litigation. I have received an AV® Preeminent™ 5.0 rating from Martindale Hubbell.

5. Examples of copyright litigation in this district in which I was primarily involved include:

Beloit Corporation v. C3 Datatec, Inc.
93-cv-00447

Budget Cinemas, Inc. v. Watertown Associates
95-cv-00037

Foamation Inc. v. Wedeward Enterprises, Inc.
96-cv-01047

Don Belman Homes, Inc. v. Gary Belman's Design Builders
98-cv-00715

Lawbase, Inc. v. Software Services Inc. of Wisconsin
01-cv-00104

Forbes v. Int'l Business Machines Corp.
02-cv-00316

National Automotive Integrity Inc v. International Data Incorporated
03-cv-00584

Keating v. Star Distributing, Inc.
04-cv-00740

6. At the outset of this matter, I billed Dr. White at a rate of \$250 per hour, based on an agreement from an earlier litigation for Dr. White that began in 2004, and even at that time it reflected a discount from my standard rate of \$275 per hour. I agreed to begin the current matter at the same rate in anticipation that the matter would be resolved relatively quickly in light of the blatant infringement by the defendants. When it became apparent in early 2009 that the matter was not going to resolve quickly, Dr. White agreed to continue at my standard billing rates, which were \$345 per hour and \$355 per hour in 2009 and 2010, respectively. I believe that my rates are well within the range of attorney's hourly billing rates for attorneys with comparable experience. Attached as Exhibit A is a page from the 2009 Report of the Economic Survey

(reporting data for 2008) conducted every other year by the American Intellectual Property Law Association, which discloses that my billing rate for 2009 and 2010 is below the 2008 median hourly billing rate reported for partners in private firm practice: i) with 15-24 years of experience (\$445); ii) in the Chicago (\$428) and Minneapolis (\$365) metro areas; iii) in firms with 11-25 IP attorneys (\$381). Further, my hourly rates are below the hourly rate reflected in the “Laffey Matrix” prepared by the Civil Division of the United States Attorney’s Office for the District of Columbia to determine a “reasonable hourly fee” in cases involving a fee shifting statute. The hourly rate in the Laffey Matrix in 2009-10 for an attorney with 20+ years of experience is \$465. See http://www.justice.gov/usao/dc/Divisions/Civil_Division/Laffey_Matrix_8.html.

7. Attorney Michael T. Griggs, an associate at Boyle Fredrickson, worked on this matter briefly in 2008. He is a 2003 graduate of the University of Wisconsin Law School. His standard billing rate in 2008 was \$195.

8. Attached as Exhibit B is a summary of the hours worked in connection with the claims asserted in this action against the three limited liability companies. The summary indicates those instances when the hours recorded in the periodic billing statements reflected work regarding the claims against the limited liability companies that was commingled with work pertaining solely to the individual defendants, and describes the adjustment made to the number of hours to reflect that fact. The claim against Nightshift, LLC was not asserted until October 2009, since which time the hours in the summary total 66.05 hours for a sum of \$23,306.50.

9. Attached as Exhibit C is a collection of copies of the actual billing statements sent to Dr. White in connection with this matter. These billing statements are based on entries created

by the timekeepers as the work is performed, and were periodically submitted to Dr. White, the primary plaintiff in this case, for the work done.

10. Attached as Exhibit D is a work in process report for the months of December 2010 and January 2011 through January 25 reflecting the time devoted to the claims asserted against the limited liability companies.

This declaration is executed under penalty of perjury in
Milwaukee, Wisconsin this 26th day of January 2011.

/s/ John P. Fredrickson

John P. Fredrickson

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2011, I served the foregoing Declaration of John P. Fredrickson, together with the supporting exhibits, by first class mail, postage prepaid, on the following parties that are currently unrepresented to the best of my knowledge:

Speedaligners, LLC
4629 52nd Ave., Unit C
Kenosha, Wisconsin 53144

Super Spring Orthodontics, LLC
4629 52nd Ave., Unit C
Kenosha, Wisconsin 53144

Nightshift, LLC
4629 52nd Ave., Unit C
Kenosha, Wisconsin 53144

/s/ John P. Fredrickson

John P. Fredrickson

*Attorney for Plaintiffs Dr. Velton C. White and
Donna White*

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